

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BILLY HOWARD,

Plaintiff,

v.

KERN COUNTY LERDO FACILITY
MEDICAL CHIEF, et al.,

Defendants.

Case No. 1:21-cv-00931-JLT-CDB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
DEFENDANT PETERS FROM THIS ACTION
FOR PLAINTIFF’S FAILURE TO EFFECT
SERVICE OF PROCESS**

(Doc. 39)

Plaintiff Billy Howard seeks to hold Defendants liable for violations of his civil rights. 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 10, 2023, the assigned magistrate judge issued findings and recommendations to dismiss Defendant Peters from the action for Plaintiff’s failure to effect service of process. (Doc. 39.) The magistrate judge provided Plaintiff 14 days within which to file any objections to the findings and recommendations. (*Id.* at 3-4.) Plaintiff was also advised that the “failure to file objections within the specified time may result in waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) No objections have been filed, and the time to do so has expired.

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1 Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducted a de novo review of this case.
2 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations to
3 be supported by the record and proper analysis. Accordingly, the Court **ORDERS**:

- 4 1. The Findings and Recommendations issued on October 10, 2023 (Doc. 39) are
5 **ADOPTED** in full.
6 2. Defendant Elena Peters is **DISMISSED** without prejudice from this action.
7 3. The Clerk of the Court is also **DIRECTED** to terminate “Kern County Lerdo Facility
8 Nursing Staff” as a named defendant on the docket for this action.
9 4. The matter is referred to the magistrate judge for further proceedings.

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11 IT IS SO ORDERED.

12 Dated: **November 7, 2023**


UNITED STATES DISTRICT JUDGE